

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: April 2015 - O-401

DATE: April 16, 2015

TO: Subcommittee on Educational Standards

FROM: George Leal, Director, Educational Standards

SUBJECT: **Proposed Amendments to Guideline 8.4 (Library Content),
Guidelines for Accredited Law School Rules – Request to
Circulate for Public Comment**

BACKGROUND

The mission of all California-accredited law schools (CALS) is to offer a sound program of legal education to their students at a reasonably affordable expense. To achieve this goal, the CALS seek to maintain their overhead expenses so that tuition may be kept relatively low in comparison to that charged at ABA-approved law schools. As reported in their 2014 Annual Compliance Reports, the average, overall expense to earn a Juris Doctor degree at a CALS was \$58,828.00, approximately one-third of the expense charged by an ABA-approved law school.

The maintenance of a compliant, hard-copy law library is among the highest overhead expenses each of the CALS is required to make. Over the past several years, the expense to keep a compliant library updated has risen sharply. At the same time, access to and use of online law libraries is common in both today's legal profession and legal academia. As a result and as required by *Guidelines for Accredited Law School Rules*, each CALS provides their students with access to one or both of the major online legal research services, Lexis/Nexis or Westlaw.

A majority of the CALS Deans, through their representatives to the Committee of Bar Examiners Advisory Committee on California Accredited Law School Rules (RAC), submitted a proposal that, if adopted, would reduce the hard-copy library expenditures by reducing the number and scope of the hard copy legal authorities currently required by the *Guidelines for Accredited Law School Rules*, specifically Guideline 8.4.

As required Guideline 8.4, a CALS law library is currently must have and regularly update three sizable collections of the reported decisions of both the California Supreme Court and the California Court of Appeal and those of the United States Supreme Court, along with an almost complete set of California statutes. Additionally, hard copies of legal encyclopedias and legal treatises for all courses offered in the J.D. degree curriculum must be maintained and updated, all at a considerable expense.

DISCUSSION

Attachment A is the proposal submitted by the CALS Deans that was discussed by the RAC at its meeting held on March 19th. As proposed, a CALS would no longer be required to maintain and update separate hard copy sets of both the California Supreme Court Reports and the California Appellate Court Reports (or West's California Reporter and Reporter 2nd). Instead, a hard-copy set of the official reports from either the California Supreme Court or the California Court of Appeal would be required, while the other set of official reports could be offered only online. As for the decisions of the U.S. Supreme Court, they may be offered either in hard copy or online.

The other key proposal is to reduce the scope of titles of the annotated California statutes that must be maintained in hard copy. Currently, Guideline 8.4 requires that all California statutes that relate to all classes offered in each law school's J.D. curriculum be offered in annotated hard-copy volumes. The proposal would reduce the number of titles to an enumerated list that relate only to those classes that cover subjects tested by the California Bar Examination (CBX). Finally, the number and scope of required hard copy legal treatises and texts would also be reduced to include only those subjects that relate to subjects tested on the CBX.

Given that the authorities discussed above (along with all other legal authorities relevant and used in legal education) are readily available and searchable with a few clicks on a computer screen, the Committee of Bar Examiners (Committee) may wish to consider whether it should continue requiring the CALS to spend what is reported to be thousands of dollars annually to keep all required hard-copy authorities available and updated. At least one hard-copy set of case reporters will still be available to students for use as a teaching tool to teach competent hard-copy legal research. The result should be a significant reduction in the expense of maintaining a compliant law library without any impact on what will be accessible by students, either in hard copy or online.

RECOMMENDATION

Staff agrees with the proposed amendments; thus, it is recommended that the proposed amendments to Guideline 8.4 (Library Contents) of the *Guidelines for Accredited Law School Rules*, as attached hereto, be approved in principle; that the proposed amendments be circulated for a 45-day public comment period; and, following receipt of any public comments, that the proposal and any comments received be referred to the RAC for its input prior to consideration of final amendments by the Committee.

PROPOSED MOTION

Should the Subcommittee agree with the above recommendation, the following motion is suggested:

Move that the proposed amendments to Guideline 8.4 (Library Contents) of the *Guidelines for Accredited Law School Rules*, which were submitted for consideration by the Committee's Advisory Committee on California Accredited Law School Rules (RAC) in the form attached hereto be

approved in principle; that the proposed amendments be circulated for a 45-day public comment period; and, following receipt of any public comments, the proposal and any comments received be referred to the RAC for its input prior to consideration of the final amendments by the Committee.